IN THE HIGH COURT OF BOMBAY AT GOA

MISC. CIVIL APPLICATIONS NO.840/06
IN STAMP NUMBER MAIN NO.3062 OF 2006 with
MISC. CIVIL APPLICATIONS NO.841/06
IN STAMP NUMBER MAIN NO.3059 OF 2006 with
MISC. CIVIL APPLICATIONS NO.842/06
IN STAMP NUMBER MAIN NO.3057 OF 2006

MISC. CIVIL APPLICATIONS NO.840/06
IN STAMP NUMBER MAIN NO.3062 OF 2006

Mr. Meghashama V. Gharse & anr. ..... Applicants.
V/s.
Mr. Narendra P. Chatim and ors. ..... Respondents.

MISC. CIVIL APPLICATIONS NO.841/06
IN STAMP NUMBER MAIN NO.3059 OF 2006

Mr. Vasant V. Bhosale & anr . ..... Applicants.
V/s.
Mr. Narendra P. Chatim and ors. ..... Respondents.

MISC. CIVIL APPLICATIONS NO.842/06
IN STAMP NUMBER MAIN NO.3057 OF 2006

Mr. Ramnath Y. Parvotkar (since deceased)
represented by his heirs and another. ..... Applicants.
V/s.
Mr. Narendra P. Chatim and ors. ..... Respondents.

Mr. Nitin Sardessai, Advocate for the applicants.

Mr. R. Menezes, Advocate for the respondents.

CORAM : S.K. SHAH, J.

DATE : 8TH FEBRUARY, 2007.

P.C.

All these appeals arise out of the same Judgment. The miscellaneous civil applications are filed by the same parties, raising the same grounds for condonation of delay in filing the second appeals. Therefore, these misc. civil applications are being disposed of by common order.

2. The Judgment and Decree was passed by the First Ad hoc Addl. District Judge, Panaji in Regular Civil Appeals No.53/2005, 54/2005 and 55/2005 on 21.9.2005. On the same day, the applicants applied for certified copies of the Judgments, which were ready on 23.9.05 and the present appeals are filed on 17.11.2006. However, there has been delay of 411 days in filing the appeals. The applicants explain that the appeals filed by the applicants came to be partly allowed and, therefore, they approached their Lawyer for advice in the matter, as appeals preferred by them were not allowed in totality. Considering the financial position of the applicants, the applicants' Lawyer advised them since the houses belonging to them were protected from being demolished, it could not be necessary to file appeals against the Judgments and Orders of the lower appellate Court and, therefore, the appellants did not file any appeal. Thereafter, in the month of August, 2006, the applicants received notices from this Court in the second appeal filed by the respondents. It is further averred in the

applications that thereafter the applicants approached their Advocate who, in turn, briefed the High Court Lawyer in Panaji to appear in the second appeal filed by the respondents. It is only after going through the papers, the Lawyer advised the applicants to prefer second appeals against the Judgment and Decree dated 21.9.2005. The applicants further state that since there was difference of opinion between the two Lawyers, the applicants though it fit to take advice of the High Court Lawyer and it is only after the third Lawyer advised them to file the second appeals against the said Judgment and Decree that they decided to file the second appeals and that was in September, 2006. By the time, they preferred the appeal, the High Court was closed for Diwali Vacation and it is only after reopening of the Court, the second appeals came to be filed on 17.11.2006.

3. It is in this manner that the applicants have explained the delay of 411 days. The learned Counsel for the respondents vehemently opposed these condonation applications being allowed. It is vehemently submitted that on a wrong advice the applicants did not file appeal. He, however, submits that the applicants have not given the reason for delay in filing the second appeals immediately after they received the notices of the second appeal filed by the respondents in August, 2006 and, therefore, he vehemently submits that all these applications should be rejected.

4. It is well settled that a litigant should not be made to suffer because of a wrong advice given by his Lawyer. In the present case, the applicants were given wrong advice probably because the applicants houses' were protected from being demolished. It may be noted that after the applicants received the notices of the second appeal filed by the respondents they, in fact, took steps to approach their Lawyer who, in turn, briefed the High Court Lawyer in order to appear in the said second appeal. It is only thereafter that the appellate Court Lawyer advised the applicants to file second appeals. All these aspects, therefore, very well explain the delay in filing the appeals. The parties should not be made to suffer because of lapse on the part of their Lawyer in giving the wrong advice.

5. Under the circumstances, the applications are allowed, however, subject to payment of costs of Rs.1,000/- in each of the applications. The applications stand disposed of. The appeals shall be registered and placed for admission.

S.K. SHAH, J.

ssm.